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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,574	05/29/2001	Toshinari Murai	109605	3664

25944 7590 05/15/2002

OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER

BUDD, MARK OSBORNE

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 05/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

865574

Applicant(s)

Murai et al

Examiner

M. Budd

Group Art Unit

2834

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 4-26-02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-4 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ ☐ Interview Summary, PTO-413
- ☒ Notice of References Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

Office Action Summary

Application/Control Number: 09/865,574  
Art Unit: 2834

Claims

2 are rejected under 35 USC 102 as anticipated by Europe (598) or Japan

(360). and 2 are rejected under 35 USC 103 as unpatentable over Japan (360) or Europe  
specific reasons set forth in paper no. 4 (12-28-01).

(588) ns 3 and 4 are rejected under 35 USC 103 as unpatentable over Eda or Kanaboshi.

da and Kanaboshi teach a saw device on Quartz, Li NbO<sub>3</sub> or Li Ta O<sub>3</sub>. The substrates  
ned approximately, although no specific degree of cleaning is explicitly stated. The  
rode finger widths are also not explicitly stated. However, electrode finger width is a  
nction of the operating frequency and is this dictated by job requirements. Providing suitable  
electrodes for any specific desired operating frequency would be within the skill expected of the  
routineer. The amount of cleaning would be a difference in degree rather than a difference in  
kind. Optimization of a known device has long been held to be within the skill expected of the  
routineer, thus selection of specific degree of cleaning would have been obvious to one of  
ordinary skill in the art. For a saw device, it would be obvious that one wouldn't want loose  
debris that was large enough to bridge the inter-electrode gap and cause shorting between the  
electrodes.

Applicant's arguments have been noted. It appears that the examiner and applicant  
disagree on what constitutes routine experimentation (optimization) and what constitutes as  
patentable distinctions. Since the degree of clean is a known variable, finding an optimum value,  
or cost/benefit advantage for any specific application would be within the skill expected of the

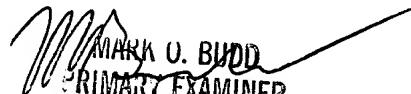
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routineer and obtainable via routine trial and Error and cost analysis considerations. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

  
MARK U. BUDD  
PRIMARY EXAMINER  
ART UNIT 212